

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION

TATE GETCHELL and BENJAMIN  
SUN,

Plaintiffs,

vs.

JMA VENTURES, LLC, d/b/a RED  
LODGE MOUNTAIN RESORT,

Defendant.

CV 22-101-BLG-SPW

ORDER

Before the Court are United States Magistrate Judge Timothy Cavan's Findings and Recommendations, filed July 16, 2024. (Doc. 74). Judge Cavan recommended the Court deny Defendant JMA Ventures, LLC, d/b/a Red Lodge Mountain Resort's Motion for Partial Summary Judgment (Doc. 48). He further recommended the Court grant Plaintiffs Tate Getchell's and Benjamin Sun's Motion for Partial Summary Judgment (Doc. 52) as to Defendant's Fifth Affirmative Defense and Defendant's Second and Third Affirmative Defenses as to Plaintiff Getchell, and deny it in all other respects.

The parties were required to file written objections within 14 days of the filing of Judge Cavan's Findings and Recommendations. 28 U.S.C. § 636(b)(1). Neither party objected to the Findings and Recommendations, and so waived their right to

de novo review of the record. *See* 28 U.S.C. § 636(b)(1)(C). This Court reviews for clear error those findings and recommendations to which no party objects. *See McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *Government of Guam v. Guerrero*, 11 F.4th 1052, 1059 (9th Cir. 2021) (quoting *C.I.R. v. Duberstein*, 363 U.S. 278, 291 (1960)). After reviewing the Findings and Recommendations, this Court does not find that Judge Cavan committed clear error.

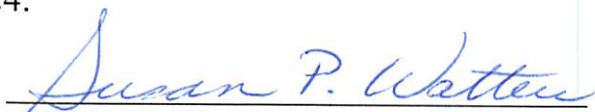
Accordingly, IT IS HEREBY ORDERED that Judge Cavan’s Findings and Recommendations (Doc. 74) are ADOPTED IN FULL.

IT IS FURTHER ORDERED that:

(1) Defendant’s Motion for Partial Summary Judgment (Doc. 48) is DENIED;

(2) Plaintiffs’ Motion for Partial Summary Judgment (Doc. 52) is GRANTED as to Defendant’s Fifth Affirmative Defense and Defendant’s Second and Third Affirmative Defenses as to Plaintiff Getchell and DENIED in all other respects.

DATED this 1<sup>st</sup> day of August, 2024.

  
SUSAN P. WATTERS  
United States District Judge